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HUMAN RIGHTS CONCERNS IN INDONESIA

APRIL 1986

An Asia Watch Report

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in 1985 by policy measures with adverse consequences for human rights advocacy. In 1985, the government refused to permit a foreign donation to a prominent legal aid organization, and local governments reportedly cut off assistance to several offices of the Indonesian Legal Aid Institute. In addition, the Social Organizations Law -- requiring approval of foreign funding -- is likely to accelerate funding cut-offs to legal aid groups out of favor with the government. Finally, the government has placed restraints upon the establishment of branches of legal aid organizations.

Indonesian authorities are now considering establishing a new law on contempt of court. The Asia Watch is concerned that any such law or regulation dealing with discipline of lawyers or others involved in court proceedings be fashioned in a manner that protects the right of vigorous advocacy on behalf of unpopular defendants.

QUESTIONS

1. Why has the government prohibited foreign funding to a local legal aid organization? Does the government intend to restrict further such funding?

2. What is the government's position and the current status of efforts to establish a new law on contempt of court? How would the proposed law differ from existing provisions, and what body would administer it?

X. East Timor

The island of Timor, 1000 miles east of Java, was colonized by the Portuguese in the late 16th century. By 1769, Holland had dislodged Portugal from the Indies, with the exception of the eastern half of Timor and a few small areas around the island. The Dutch ruled western Timor until the Netherland East Indies achieved

independence as Indonesia. The Portuguese ruled East Timor until 1975, interrupted only by the Japanese occupation between 1941 and 1945.

The fall of the Portuguese regime in 1974 held out the promise of an independent East Timor. As the Portuguese proceeded with decolonization, fighting broke out between two local independence groups. During the fighting, Portugal withdrew. The Revolutionary Front for an Independent East Timor (Fretilin) won the civil war and, in the face of growing military pressure from Indonesia, declared independence on November 28, 1975. Thereafter, Indonesian forces launched a full-scale invasion of Dili, the capital, and Baucau. In defiance of several U.N. resolutions calling for the withdrawal of Indonesian forces and for self-determination for the territory's inhabitants, the Indonesian government announced in 1976 that it had annexed the territory.

Church and some government sources indicate that more than 100,000 persons died as a result of the invasion, later military operations, and a famine that was caused by the conflict. (The pre-invasion population was estimated at fewer than 700,000.) Between 1975 and 1986, Amnesty International and other human rights monitors received continual reports from the territory on the killing of non-combatants, extrajudicial executions, torture, and detention without trial. Armed conflict between independence forces and the Indonesian military continues in 1986, as do reports of abuses. It is difficult to check these reports because of the Indonesian government's policy of nearly complete

denial of free expression, association, or contact with the outside world for East Timorese. For example, church sources indicate that religious leaders have been warned against making statements on the human rights situation in East Timor.

There are reports from the territory that detainees in the Los Palos district of East Timor were tortured in 1985, and that authorities have continued to apply summary justice outside of Dili. A recent article in the Indonesian daily Sinar Harapan reported:

> Since the only district court in East Timor is in Dili, the [authorities]...often execute justice on the spot [emphasis added], far from Dili, because it would cost time and money to bring the persons to Dili for trial.

In addition, Amnesty International and others have reported that detainees released from Atauro Island have not been permitted to return to their homes, but are being held in resettlement centers in which their movements are restricted.

The Asia Watch is also concerned about the fairness of ongoing subversion trials in East Timor. The circumstances surrounding the trials strongly suggest absence of proper procedure. By the end of 1985, some 200 Timorese suspected of involvement in the independence movement had been tried and convicted. Remarkably, all the defendants were reported to have pleaded guilty, and none have appealed their convictions. Thus, there is strong reason to suspect that prisoners fear retribution for even minimal exercise of their legal rights. According to local press reports and the Far Eastern Economic Review, prisoners have been encouraged to proceed in this manner by a handful of government-appointed lawyers flown in from western Timor to handle these

cases. A recent statement by the Indonesian Chief Judge in Dili is not reassuring. He said:

> If all trials proceded as they do here in East Timor, the job of our law enforcement officers would be very easy indeed.

Foreign press reports suggest there are at least 10,000 Indonesian troops in East Timor. According to a recent report in the Far Eastern Economic Review, the Indonesian armed forces may be planning shortly to launch an offensive in the territory. The recent history of human rights abuses gives strong reason to fear that any such offensive may involve gross violations of internationally recognized human rights.

Again, many of the reports coming out of East Timor are difficult to verify. We are aware, of course, that the Indonesian government has argued that human rights reporting on the territory has been biased. It is important to note, however, that the paucity of information is due primarily to the rigid controls on access to East Timor, inspection of mail, and military control of telephone links to the territory.

QUESTIONS

1. Will the government agree to permit international trial observation at subversion trials in East Timor?

2. What are the precise restrictions on movement of Atauro Island returnees now in resettlement camps? Will they be permitted to return to their homes? If so, when?

3. Would the government permit free access to East Timor and freedom of movement within the territory? If not, why not?

XI. Irian Jaya

Part of the Dutch East Indies prior to 1949, the western half of New Guinea had been retained by the Netherlands against Indonesian claims until 1962, when it was rapidly prepared by the Dutch for early independence. In May 1963, under a U.S.-mediated agreement, and following a six-month period formally under United Nations authority, Indonesia assumed open control, pending an act of self-determination. Six years later, the government held an "Act of Free Choice." Rather than a referendum based upon the principle of one person-one vote, the government conducted the exercise through local councils, which were strongly pressured to approve incorporation unanimously. They did so, with U.N. observers noting widespread opposition to what was, in effect, an Indonesian-imposed outcome. Several months later, the United Nations General Assembly approved the outcome, and Irian Jaya became an Indonesian province.

Since the mid-1960s, the Free Papua Movement (OPM) has been seeking to establish independence in the territory. Over this period, the Indonesian military and the OPM have fought a war of varying intensity. Despite controls on access to the territory, there have been numerous reports of human rights abuses by the Indonesian authorities. These have included extrajudicial executions, use of incommunicado detention, and killings of civilian non-combatants.

The Asia Watch is concerned about the possible extrajudicial executions of Arnold Ap and Eduard Mofu. The two, along with several others, escaped from prison in Jayapura on April 21, 1984, and were later found dead. The circumstances around the killings

give reason to fear that Ap and Mofu may have been executed by the Indonesian military.

Also in early 1984, thousands of refugees crossed the border from Irian Jaya to Papua New Guinea, and some 10,000 remain in Papua New Guinea. The Asia Watch is concerned about reports that suspected OPM personnel forcibly repatriated may be subject to mistreatment upon their return to Irian Jaya.

The Asia Watch is also concerned about recent reports from Amnesty International of the routine use of incommunicado detention in Irian Jaya. Amnesty International has reported that eleven prisoners were believed to have been transferred from Abepura Prison to an unknown location in late January 1986. At least six of them had reportedly been charged and sentenced.

There were unconfirmed reports of hundreds of killings of civilians in the Paniai highlands of Irian Jaya in 1985. This area is not open to outside observers. The Asia Watch is unaware of any effort by Indonesian authorities to investigate the reports.

Subversion trials in Irian Jaya are generally not reported in the Indonesian media and have thus far been closed to outside observers. Trials involving seven persons forcibly repatriated to Irian Jaya from Papua New Guinea in October 1985 were expected to take place in early 1986. The Asia Watch has received an unconfirmed report that at least one has already been held, with the defendant being sentenced to ten years in prison. The Asia Watch is concerned that the trials comply with international standards. Acceptance of observers would increase the likelihood

that this will occur.

QUESTIONS

1. Will the government undertake an independent investigation of the deaths of Arnold Ap and Edward Mofu? If not, why not?

2. Has the government investigated reports that civilian non-combatants were killed in the Paniai highlands in 1985? If not, would it undertake such an investigation?

3. Does the government sanction the practice of incommunicado detention? If not, what guidelines do the authorities give to soldiers in this regard? Has the government informed families of the whereabouts of the eleven persons taken from Abepura prison in January?

4. Would the government permit international observers at subversion trials held in Jayapura?

X. Access for International Relief Organizations

According to the U.S. State Deparment, the International Committee of the Red Cross (ICRC) has reached an agreement with the government on several important humanitarian issues, including visits to prisoners in East Timor. However, reports received by the Asia Watch suggest that access by relief organizations to detainees in East Timor is still limited, especially in outlying areas, where prisoners may be held for interrogation.

The State Department has also reported that the ICRC may visit those persons still in prison for their alleged involvement in events surrounding the 1965 coup attempt. There appears to be no access by relief organizations to detainees in Irian Jaya, however, or to hundreds of Muslim political prisoners held in Indonesia. The Asia Watch believes that such access is of great importance.

QUESTIONS

1. Would the government permit access by relief organizations to Timorese prisoners under prolonged interrogation?

2. Would the government permit visits by relief organizations to prisons in Irian Jaya and to Islamic prisoners held throughout Indonesia?

XIII. Conclusion: Internationally Recognized Human Rights and Indonesia

On several recent occasions, human rights organizations have asked the Indonesian government to permit them access to investigate human rights concerns. For example, Amnesty International requested permission to observe subversion trials in East Timor and trials related to the Tanjung Priok incident. These requests were made in 1984 and 1985, respectively. The Asia Watch is not aware of any such request being granted by the government. We have asked permission to visit Indonesia to investigate the issues discussed in this report, and our request is pending.

The Asia Watch understands that Indonesian officials have argued that internationally recognized human rights are an inappropriate standard by which to evaluate a culture and society far removed from western institutions. Many Indonesians protest this "cultural" argument, and the government -- through its participation in international organizations and by agreeing to abide by a number of international agreements on human rights and the laws applicable in cases of armed conflicts -- has accepted certain human rights obligations. The Asia Watch calls on the government of Indonesia to show that it intends to respect its commitments by permitting human rights organizations to conduct inquiries on the concerns set forth in this report.